

Appl. No. 09/507,838
Attorney Docket No. 10226
Response dated June 30, 2006
Reply to Office Action dated May 31, 2006

REMARKS

The Examiner has required restriction of claims 1 to 20 of the present application to the following groups:

Group I, including claims 1 to 17, is drawn to an oxygenate conversion process.

Group II, including claims 18 to 20, is drawn to a system.

Applicant elects prosecution of Group I without traverse. Accordingly claims 18 to 20 are withdrawn from consideration.

The Examiner has also required election of a single disclosed species of small pore oxygenate conversion catalyst. Claim 5 is directed to the following species: ZK-4, ZK-5, zeolite A, zeolite T, chabazite, gmelinite, clinoptilolite, erionite, ZSM-5, ZSM-11, ZSM-12, ZSM-23, ZSM-34, ZSM-35, ZSM-38, ZSM-48, ZSM-50, rho, offretite, ferrierite, levyne, SAPO-17, SAPO-18, SAPO-34, SAPO-43 and SAPO-44.

Pursuant to 37 CFR 1.143 Applicant provisionally elects prosecution of the SAPO-34 species for claims 5-7, with traverse. Applicant reserves consideration of other species upon allowance of claim 1, which the Examiner has identified as being generic.

Applicant respectfully traverses Examiner's reasons for insisting upon a species restriction in this case. Each of the species Examiner has identified as restrictable are characterized in the instant specification as small pore oxygenate conversion catalysts. *See* originally-filed specification at pages 6-7. The Examiner suggests that these catalysts are independent and distinct inventions due to their different activities. *See* Office Action at page 2.

According to MPEP § 808, in order for a species restriction to be proper, the Examiner must establish both: (A) that the species are independent and distinct

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inventions; and (B) that there would be a serious burden on the Examiner if restriction is not required. Furthermore, regarding the undue burden on the Examiner, MPEP § 808.02 indicates three ways in which the Examiner can establish undue burden: (A) showing separate classification of species; (B) where species are classified together, showing separate status in the art for each species; or (C) requiring a different field of search shown for each species.

While the Examiner has stated that the above species have different activities, such is not one of the three ways in which Examiner can appropriately establish undue burden according to MPEP § 808.02. The Examiner has not shown that the presently pending process claims using each of the small pore oxygenate conversion catalyst species would be separately classified, would have a separate status even if commonly classified, nor would require a different field of search. Thus, Applicants respectfully submit that the Examiner has not proven undue burden, and therefore cannot maintain the restriction requirement. Reconsideration and withdrawal of the requirement is respectfully requested.

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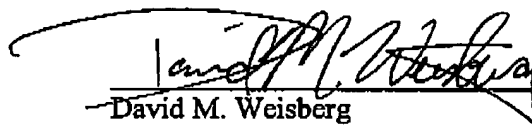
CONCLUSION

Applicants invite the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 10226).

Respectfully submitted,

Date: June 30, 2006


David M. Weisberg
Attorney for the Applicants
Registration No. 57,636

Post Office Address (to which correspondence is to be sent):
ExxonMobil Chemical Company
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Telephone No. (281) 834-0599
Facsimile No. (281) 834-2495

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